

Via Certified Mail With Return Receipt Requested

February 14, 2023

FROM:

Nicholas J. Talian
P.O. Box 2087
Rockville, MD 20847

URGENT

LEGAL NOTICE

**NOTICE
OF
CLAIM**

TO:

ATTN: Case No. 23-10063
The Honorable Judge Sean H. Lane
United States Bankruptcy Court
Southern District of New York
300 Quarropas Street
White Plains, NY 10601-4140

JUDGE'S COPY

**COMPLAINT ABOUT:
GENESIS BANKRUPTCY PROCEEDINGS
& GEMINI EARN PROGRAM DEFAULT**

I. Part I - Introduction & Cover Letter

Dear Honorable Judge Lane:

I am writing to formally lodge a complaint against Gemini Trust Company, LLC, and its owners, as well as Genesis, DCG, and its owner Barry Silbert. I lent approximately \$50,000 collectively to these individuals via the Gemini Earn / Grow program during the years 2021-2022. On November 16, 2022, Gemini abruptly halted withdrawals from cryptocurrency balances held within the Gemini Earn program resulting in financial distress and hardship for thousands of users, including myself. The current market value of these inaccessible assets is now in excess of \$63,000 ! We the Users of Gemini Earn demand to be made whole again immediately ! Collectively, Gemini Earn Users are owed over \$900M !

Now we have a situation whereby, a huge number of assorted parties (and their legal advisors) are involved in back-room discussions about how best to divide up the remaining funds amongst themselves, under the purported intent of achieving a "global resolution". There is a tremendous amount of obscurity and obfuscation being perpetuated by these individuals in an apparent attempt to shroud and diminish the strength and validity of our claims in a cloud of secrecy and lies. We are being drowned in confusing, nonsensical terms like "intra-company 10-Year 1% Note Payable" and "commingled funds between parent and subsidiary". Why would a subsidiary (Genesis) lend \$1B to its parent (DCG/Barry Silbert) firm? This is very peculiar and smells fishy.

This promissory note makes absolutely no sense to me whatsoever, and I have studied business extensively. Typically the parent lends to the child, not the other way around. Unless there was fraudulent intent from the very beginning: Intent to gamble on high-risk speculative transactions and roll the dice using other people's money, and then claim the businesses were separate entities, in order to evade repayment to lenders by declaring bankruptcy on behalf of the subsidiary but preserving the parent entity when the bet failed, which is exactly what happened.

It's a complicated & tangled mess, designed to confuse average people like myself who are not privy to the substance or manner in which these negotiations are being conducted. What little information we have been able to learn is a result of time-consuming sleuthing, reverse-engineering publicly available news sources, and we are being forced to parse out the meager content of the official Gemini Earn Updates Page. Every week that passes by and we are forced to accept another "No Material Update", despite claims of more "fulsome" updates coming soon. These updates are woefully inadequate and betray a fundamental lack of respect for the victims, regulatory agencies, and the court of law. This ongoing lack of transparency and inadequate communication, is an affront to our values, our intelligence, and just adds insult to injury. What these people are doing is nothing short of highway robbery and requires much more intense regulatory scrutiny and law enforcement involvement than is currently occurring. As of this writing, we are still waiting for a detailed plan (not shrouded in convoluted legalese/jargon) written in Plain English, which clearly specifies exactly how much money (percentage) we can expect to recover, and when we can expect to receive it, and in what form (original cryptocurrency or dollarized).

In the wake of Genesis filing for Chapter 11 Bankruptcy protection, I am primarily concerned that my money is being drained through excessive litigation, legal maneuvering, and internal bureaucratic processes. In other words, a large portion of my money will go to paying attorney's fees, court expenses, paralegal costs, and lawyers' benefits and compensation. Furthermore I am extremely concerned about the recent attempts to stall, delay, extended the timeline, drag this out, stringing us along for an extended period in order to inflate these attorneys' billable hours which will ultimately be taken out of the victims' pockets, leaving less money available to be recouped on behalf of Gemini Earn Users.

Most recently, during the last courtroom hearing, which I participated in listen-only mode via Zoom teleconference, I witnessed a great amount of "virtual back-slapping" and audible congratulations being shared amongst the various lawyers and law firms involved in the aforementioned back-room clandestine negotiations. The overall mood was upbeat, jovial and self-congratulatory. Yet, despite all these lawyers giving each other kudos, I still have not received one cent of my claim, which is what is long overdue. While I appreciate the court's openness and dedication to allowing outside participants to listen in, I am extremely concerned about the overall tone of this conference. Every week that passes by I read about yet another law firm petitioning the court for an extension, or a delay, or a pause. Indeed, the Term Sheet was not released on schedule, but after a lengthy delay. Many typographical and clerical errors have been spotted in the Notices posted to the case docket. Make no mistake, every additional second that is added on to the already lengthy proceedings is another second of intolerable financial hardship and distress imposed upon the vast numbers of victims such as myself. I take umbrage at the levity displayed by the involved conference participants - there should be no celebration by lawyers or other legal / administrative advisors congratulating each other on a job well done, until such time as all victims have been made Whole Plus Interest & Damages.

I am calling for an immediate freeze of all company assets in Genesis, DCG, and for Barry Silbert to immediately abide by the Terms and Conditions of our loan agreement. I am calling for the immediate termination of all Genesis and DCG executives and employees so that I am not subsidizing unnecessary employees' salaries & benefits packages while the bankrupt company is liquidated to repay victims. Furthermore I am demanding that Gemini immediately abide by the Terms and Conditions of our loan agreement, whereby any amounts lent to Gemini / Genesis via the Gemini Earn program would be callable within 5 business days. This letter serves as formal notification that Gemini / Genesis / Silbert are in default. Collectively, these individuals have defrauded and bilked Billions of Dollars in life savings, from thousands of hard-working American individuals and taxpayers.

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II. History of Gemini / Overview of the Gemini / Genesis Earn Scam Program

In the early days of cryptocurrency, the Winklevoss twins, Tyler and Cameron, founded Gemini, a digital asset exchange. Alongside this, they also created the Gemini Earn program, which promised high returns to users who deposited their digital assets into the platform. The program was marketed as a way for users to earn interest on their idle assets, and it quickly gained popularity among crypto enthusiasts. The Gemini Earn program was launched in February 2021, as a way for retail investors to earn reasonable yields on their cryptocurrency investments. Users were able to deposit a variety of digital assets, including Bitcoin and Ethereum, into their Gemini Earn accounts and earn interest on their deposits. The program was marketed as a safe and secure way (fully vetted and using a risk management framework to protect retail investors - and registered with New York Department of Finance) to earn passive income on one's digital assets and was heavily promoted by the Winklevoss twins, the founders of Gemini.

However, it was later revealed that the Gemini Earn program was not as it seemed. The program was actually a scam / financial fraud / confidence game, perpetrated by a bunch of con artists, in which returns and principal invested were promised to be returned, but in actuality, were never delivered. Additionally, it came to light that the Winklevoss twins, through their relationship with the company Digital Currency Group (DCG) and Barry Silbert, had invested in Genesis Trading, a firm that was also operating a similar Ponzi scheme.

The Gemini Earn program was a highly touted investment opportunity that promised yields on cryptocurrency investments for retail investors. However, in the wake of the Sam Bankman-Fried (SBF) / FTX corruption and fraud scandal the program was suspended in November of 2022, leaving thousands of users with locked funds and no clear path to recovery. Retail investors such as Gemini Earn customers were not supposed to be exposed to offshore trading firms like FTX. The failure of the program was a result of the bankruptcy of Genesis, the company that was providing the investment services, and the obfuscated efforts by Digital Currency Group (DCG), led by Barry Silbert, to protect his personal assets from seizure.

The Securities and Exchange Commission (SEC) launched an investigation into the matter and found that the Gemini Earn program, as well as the investments made by DCG into Genesis Trading, were unregistered securities offerings. This meant that Genesis, DCG, Barry Silbert and their companies were in violation of securities laws and regulations.

As a result, the SEC filed a lawsuit against DCG, Genesis Trading, and Gemini. The complaint alleged that the defendants had defrauded investors by offering unregistered securities and effectively operating a Ponzi scheme. The SEC is seeking disgorgement of ill-gotten gains and penalties, as well as a permanent injunction against the defendants.

The twins, Silbert, and their companies have denied any wrongdoing and have stated that they will defend themselves against the SEC's allegations. But the fact that Derar Islim, the head of Genesis Trading, was claiming to be a Fulbright Scholar on his official LinkedIn profile, but there is no record of that fact on Fulbright's online alumni database, this is a red flag that Genesis Trading and DCG were trying to falsely represent themselves as reputable firms to attract investors.

The victims of the Gemini Earn scam, now seek justice and immediate disgorgement of their investments, in order to make them whole again and restore the trust in the crypto industry.

III. Patterns of Obfuscation & Lies

The history of the Gemini Earn program and the Genesis bankruptcy proceedings is one that is fraught with deception and obfuscation. From the start, there were suspicions that the program was a Ponzi scheme, with references to similar scams such as those run by Bernie Madoff. The Securities and Exchange Commission (SEC) has filed a lawsuit against Barry Silbert, Digital Currency Group (DCG), Genesis, Gemini, and the twins, alleging that they offered unregistered securities in the form of "feeder funds" to unsuspecting investors.

The pattern of obfuscation and lies by Gemini, Genesis, and Barry Silbert is one that has been consistent throughout the entire ordeal. This includes the sudden and unexplained "security locks" on user accounts, preventing users from transferring their bitcoin and other cryptocurrencies out of the Gemini platform. Additionally, there have been multiple reports of hacking attacks on the platform, leaving users vulnerable to identity theft and phishing attacks.

Gemini's customer service has also been found to be sorely lacking in responsiveness to customer inquiries, adding to the overall frustration and mistrust felt by users. This lack of communication and transparency has resulted in a great deal of mental and emotional hardship for those affected, with some even reporting cases of divorce and other personal tragedies as a result of the stress caused by the situation.

The overall impact on users of the Gemini Earn program has been devastating. Many have lost not just their investments but also their trust in the entire underlying financial system. The fact that the individuals and companies behind the program (Barry Silbert, Genesis, Gemini Earn, DCG) have shown a pattern of obfuscation and lies, and have failed to take responsibility for their actions, only adds insult to injury. It is imperative that immediate action is taken to disgorge the investments of users and make them whole as soon as possible.

It is also worth noting that none of the proposals during the past two months of negotiations have been shared with Gemini users, and we are unable to review or vote on them. This lack of transparency and communication is unacceptable and only adds to the mistrust and frustration felt by those affected by this scam. The absurdity of "No Material Update" being posted on the Gemini Earn Update page is a further indication of the lack of transparency and accountability on the part of Gemini and Genesis. This lack of information and communication only adds to the frustration and hardship experienced by Gemini Earn Users, who are left in the dark about the fate of their investments.

Section 2: Genesis Bankruptcy and DCG's Executive Efforts to Protect Personal Assets

The failure of the Gemini Earn program was a direct result of the bankruptcy of Genesis, the company that was providing the investment services. It was later revealed that DCG, the parent company of Genesis, led by Barry Silbert, had been using funds from the Gemini Earn program to cover the losses of other investments within the company. Furthermore, it was discovered that Silbert had taken steps to protect his personal assets from seizure, including transferring ownership of certain assets to family members. This is precisely why he created such a convoluted maze / labyrinth with his corporate structure: so he could shield himself from any personal liability and wash his hands of any wrongdoing.

Section 3: Impact on Gemini Earn Users and Demands for Disgorgement

The suspension of withdrawals from the Gemini Earn program has had a significant impact on the thousands of users who had invested their funds. Many have reported emotional, mental, and physical hardship as a result of the loss of their investments. Additionally, there are users who have reported being misled by Derar Islm, an executive at Genesis, who claims to be a Fulbright Scholar on his official LinkedIn profile biography but there is no record of that fact on Fulbright's online alumni database.

In light of these events, it is imperative that immediate action is taken to disgorge the investments of Gemini Earn users and make them whole as soon as possible. The Winklevoss twins and Gemini, as well as Barry Silbert, DCG, and Genesis, must be held accountable for their actions and the harm they have caused to retail investors. The SEC and other regulatory authorities must take swift action to ensure that justice is served and that the rights of these retail investors are protected.

IV. Expenses Incurred

Attached is a preliminary listing of the personal out-of-pocket expenses I have incurred during this ordeal in an effort to defend myself from these wolves. I expect in addition to any settlement, that I will be requesting direct reimbursement from the guilty parties for these legitimate expenses.

Description	Rationale	Vendor	Amount
Self-Inking Stamps	Office supplies required to send letters to the relevant parties	Ebay	\$50
Printer Paper, Manila Envelopes	Office supplies required to send letters to the relevant parties	Staples	\$25
Postage Expense	U.S. Postal Service costs	USPS	\$100
Laser Jet Printer Toner	Office supplies required to send letters to the relevant parties	Staples	\$75
Telecommunications Expense (Home Internet)	Telecommunication expense to monitor ongoing court proceedings virtually and participate in online Gemini Earn User forums	Verizon	\$240
Telecommunications Expense (Mobile Wireless Device)	Telecommunication expense to monitor ongoing court proceedings virtually and participate in online Gemini Earn User forums	T-Mobile	\$280
TOTAL			\$770

V. Conclusion

The actions of Genesis, Barry Silbert, and their companies can only be described as highway robbery. The lack of regulatory oversight and law enforcement involvement in this case is unacceptable. The SEC lawsuit is a step in the right direction, but it is clear that much more intense scrutiny and action is needed to protect the rights of users and hold these individuals and companies accountable for their actions.

It is imperative that regulators and law enforcement agencies take a closer look at the Gemini and Genesis Earn program and the actions of its operators. The potential for fraud and harm to consumers is too great to ignore. Genesis, DCG, and its owner, Barry Silbert and his companies must be held responsible for their actions and the harm they have caused to so many innocent people.

In conclusion, the Gemini and Genesis Earn program, run by Barry Silbert, and their respective companies, is a scam, a Ponzi scheme, and a highway robbery. The SEC lawsuit is just the tip of the iceberg and it requires more intense regulatory scrutiny and law enforcement involvement to protect the rights of users and hold these individuals and companies accountable for their actions. The victims of this scam have suffered tremendously, and immediate disgorgement of investments is required to make them whole as soon as possible.

I reserve the right to pursue legal action until I am made fully whole again and justly, properly compensated for expenses and damages from this ordeal. I will accept immediate prepayment or pre-funding from collateral which has already been set aside for any victims' compensation fund. My payment / bank account routing information is on file with Gemini. Immediate repayment of loaned funds (principal + interest) now PAST DUE and in default, should be sent to this bank account. It is completely equitable, fair, legal, proper, right, and just that I be repaid as soon as possible.

It gives me no pleasure to write and deliver this stern letter to you. But I feel forced to do so, to emphasize the seriousness of these circumstances, and in order that my voice may be heard, and to put additional pressure on the relevant parties to accelerate the timeline for repayment of victims.

IF YOU IMPORT THIS LETTER INTO YOUR COMPUTER SYSTEM, YOU MUST FIRST REDACT MY NAME AND CONTACT INFORMATION FROM BEING PUBLICLY VIEWABLE. I DO NOT CONSENT TO HAVING MY NAME OR OTHER PERSONALLY IDENTIFIABLE INFORMATION PUBLISHED ONLINE, UPLOADED TO ANY DATABASE, OR OTHERWISE PUBLICIZED IN ANY PUBLIC NEWS ARTICLE. I WILL CONSIDER THIS "DOXXING" AND WILL DEFEND AND PROTECT MY PRIVACY RIGOROUSLY.

Earning money means working for it, and I worked extremely hard to Earn and save this money that I lent to these people and which they are not returning to me. I will NOT forfeit my claim, sign a release, or accept less than what is owed to me under United States Law. Earning a decent wage for decent work is a core, fundamental, binding principle of our society. This is the American Way and has been for generations. I intended to save this money for the future, so I could leave something behind for my descendants someday, just as my parents and grandparents passed something on to me. Sadly, this current situation has ruined my belief in the American Dream. Now, restitution is about more than just monetary compensation. It means restoring faith and trust in America's institutions: the Federal Government's financial regulatory bodies, the Justice and Court system, the Rule of Law, and the notion that no matter how rich or famous you are, you can't lie, cheat, or steal your way to greater power and fortune.

Specific Actionable Demands:

- 1. Immediate return of all Gemini / Genesis Earn user funds currently locked / stuck in "Pending Withdrawal" status.**

I cannot emphasize this point strongly enough, so I will repeat it again:

WE MUST BE MADE WHOLE AS SOON AS POSSIBLE !

(Specie of the funds returned shall be determined by the user's preference, either in their original crypto format or equivalent U.S. Dollars).

- 2. Deny all requests and motions for extended deadlines and additional time to complete the bureaucratic process. The involved parties need to stop these delay tactics and work harder and faster to return money to the victims of this horrific financial crime.**

Thank you for your efforts thus far.

I also urge you to coordinate with other chiefs of relevant government agencies (who most likely already have an open file in this case) in pursuit of the most rapid and efficient course of action and to avoid duplication or redundancy of work.

I implore you to see this to the end until Justice is served and victims are made whole again.

Sincerely,



Nicholas J. Talian

Carbon Copy of this Letter has been sent to the following:

ATTN: Case No. 23-10063
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